

## STATE OF SOUTH CAROLINA

(Caption of Case)

Application of Carolina Power & Light  
Company, d/b/a Progress Energy Carolinas,  
Incorporated for the Establishment of  
Procedures for DSM/EE Programs

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

## COVER SHEET

DOCKET

NUMBER: 2008 - 251 - E

(Please type or print)

Submitted by: J. Blanding HolmanSC Bar Number: 72260

Address: Southern Environmental Law Center  
38 Broad Street, Suite 200  
Charleston, SC 29401

Telephone: (843) 720-5270Fax: (843) 720-5240

Other: \_\_\_\_\_

Email: bholman@selc.org

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

## DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition ☐ Request for item to be placed on Commission's Agenda expeditiously

☐ Other: \_\_\_\_\_

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input checked="" type="checkbox"/> Response
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other:
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest	
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit	
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report	



Southern  
Environmental  
Law Center

201 West Main Street, Suite 14  
Charlottesville, VA 22902-5065  
434-977-4090  
Fax 434-977-1483  
SouthernEnvironment.org

January 13, 2008

Mr. Charles L.A. Terreni  
Chief Clerk of the Commission  
SC Public Service Commission  
P.O. Drawer 11649  
Columbia, SC 29211

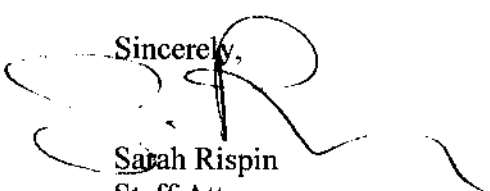
RE: Application of Carolina Power and Light Company d/b/a Progress Energy  
Carolinas, Incorporated for the Establishment of Procedures for DSM/EE  
Programs

DOCKET NO.: 2008-251-E

Dear Mr. Terreni:

Enclosed please find for filing the Response of Southern Environmental Law Center  
("SELC") to Progress Energy Carolina's Motion to Deny SELC et al's Petition to  
Intervene Out of Time in the above-captioned matter.

Sincerely,



Sarah Rispin  
Staff Attorney

STATE OF SOUTH CAROLINA  
BEFORE THE PUBLIC SERVICE COMMISSION

DOCKET NO. 2008-251-E

In the Matter of:	)	
	)	
	)	
Application of Carolina Power and Light	)	
Company d/b/a Progress Energy Carolinas,	)	
Incorporated for the Establishment of	)	SOUTHERN ENVIRONMENTAL
Procedures for DSM/EE Programs,	)	LAW CENTER'S (SELC'S)
Docket No. 2008-251-E	)	RESPONSE TO PROGRESS
	)	ENERGY CAROLINA'S
	)	MOTION TO DENY
	)	SELC'S PETITION TO
	)	INTERVENE ON BEHALF
	)	OF ITSELF, THE SOUTHERN
	)	ALLIANCE FOR CLEAN
	)	ENERGY, THE NATURAL
	)	RESOURCES DEFENSE
	)	COUNCIL AND THE
	)	SOUTHERN COASTAL
	)	CONSERVATION LEAGUE
	)	

The Southern Environmental Law Center (SELC) hereby responds to Progress Energy Carolinas' (PEC's) Motion to Deny Petition to Intervene of the Southern Environmental Law Center (SELC), the Southern Alliance for Clean Energy (SACE), the Natural Resources Defense Council (NRDC), and the Southern Coastal Conservation League (CCL) in this docket.

SELC, SACE, NRDC and CCL have petitioned to intervene in this docket to help inform the Commission in its decision on whether, and in what form, to approve the demand-side management (DSM) and energy efficiency (EE) programs that PEC seeks to establish in its Carolinas service territory. These groups have been working together as a

coalition over the past few years to promote energy efficiency in the Southeast. We believe that our viewpoint, informed both by decades of experience working for citizens groups in the Carolinas and the Southeast, and by the singular knowledge of the energy-efficiency experts who have agreed to engage in this topic with us, will only benefit the debate. Based on only the most cursory web research, and “evidence” garnered from an absurd attempt to elicit information on our organizations’ membership from an expert *economist* retained by our coalition for a separate proceeding, PEC charges that our organizations lack the qualifications to intervene in this docket. But the arguments that PEC musters are vague, misleading, devoid of basis in the law, and must be rejected.

**I. SELC, SACE, NRDC and CCL Possess Standing to Intervene in this Docket on behalf of their Members under South Carolina Law**

PEC seems to argue that SELC et al lack standing to intervene because (1) we do not truly have members, (2) to the extent we have members, they have not been intimately involved in the decision to intervene in this particular docket, or to develop the position our groups plan to advance in this docket. The first argument fails as both a matter of fact and law. The second argument fails as a matter of law, as there is no such requirement in South Carolina law.

**A. Each Coalition Group has Members in PEC’s Service Territory, and Otherwise Satisfies the Requirements for Organizational Standing**

In South Carolina courts,

An organization has standing to bring suit on behalf of its members when its members would otherwise have standing to sue in their own right, the interests at stake are germane to the organization's purpose, and neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.

*Beaufort Realty Co v. Beaufort County*, 551 S.E.2d 588, 589 (Ct. Ap. S.C., 2001) (citing *Hunt v. Washington State Apple Advertising Commission*, 432 U.S. 333, 343 (1977)).

As asserted in SELC et al's Petition to Intervene Out of Time, and reiterated in greater detail in the Thompson Verification, attached, each of the organizations have members who are PEC ratepayers. Thompson Verification at ¶¶ 3, 15, 20, 27. This confers upon them standing to intervene in their own right: As ratepayers, the organizations' members have a direct interest in the size of the rates they pay to PEC, and whether PEC uses those rates in a fiscally and environmentally responsible manner—satisfying the requirement that they assert a concrete and particularized interest in the proceedings. *Id.*; *Carolina Alliance for Fair Employment v. S.C. Dep't of Labor, Licensing & Regulation*, 523 S.E.2d 795, 800 (S.C. Ct. App. 1999). *See also Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992).

Contrary to PEC's vague allegations—made, it can be presumed, upon only the most cursory perusal of the initial page of the websites of each organization in the Coalition—that members of the groups would have “no idea” that they would ever intervene in DSM/EE proceedings, this is germane to each organization's purpose, and is part of work loudly touted by each group.<sup>1</sup>

---

<sup>1</sup> PEC's statement in its Motion that “[a]t a hearing before the North Carolina Utilities Commission on January 7, 2009, regarding cost recovery of DSM/EE costs by PEC, the witness for [SELC et al] admitted that he had no idea whether any ‘member’ located in PEC's service territory had been consulted before these entities petitioned to intervene in that proceeding or supported the position being taken by those entities” is entirely misleading. Counsel for PEC broached this topic on cross examination of Richard Hornby, an expert on the economics of DSM and EE rate recovery structures who had been retained by the coalition in relation to the proceedings for that expertise and only for that expertise. Mr. Hornby never had, nor should be expected to have, any knowledge as to the membership of the coalition groups, nor as to their pre-litigation practices. (Although the North Carolina Utilities Commission has not yet published transcripts of this proceeding, we will gladly provide the Commission with transcripts as soon as they become available.)

The SELC mission statement, as correctly quoted by PEC, includes “protect[ing] the environment and health of the Southeast” including “the quality of the air” (which is affected by the cleanliness of the sources PEC uses to provide for its ratepayers electricity needs) and “the landscapes and communities” of the region (which are being adversely affected by coastal erosion and other negative effects of global warming, that in turn can be slowed by expanding the role of energy efficiency in PEC’s resource mix). Thompson Verification at ¶ 5. SACE, as PEC also correctly identifies, “promotes responsible energy choices . . . throughout the Southeast.” Thompson Verification at ¶ 11. As indicated on its website, SACE’s energy efficiency work includes advocating increased electric utility investment in energy efficiency programs, home energy efficiency, minimum appliance and equipment energy-efficiency standards, and model energy-efficiency building codes. *Id.* at ¶ 13. NRDC maintains a broad focus on the environment and human health; to this end, it has been active in promoting responsible energy choices, including energy efficiency. Thompson Verification at ¶ 21. Finally, CCL acts to “protect the natural environment of the South Carolina coastal plain . . . by working with individuals, businesses and government to ensure balanced solutions.” Thompson Verification at ¶ 25. Intervening in a utility DSM/EE proceeding to ensure balanced solutions to the energy challenges faced by South Carolina plainly is in line with this purpose. And because these interests are shared by all members of each group that are PEC ratepayers, propounding them before the Commission does not require “the participation of individual members in the [proceeding].” *Beaufort*, 551 S.E.2d at 589.

PEC seems to argue that our organizations lack “members” in some significant sense. But *Hunt v. Washington State Apple Advertising Commission*, 432 U.S. 333, 343

(1977), which is relied upon alongside the other major U.S. Supreme Court cases on organizational standing by South Carolina Courts, *see e.g., Beaufort*, 551 S.E.2d at 589, established that organizational standing must be granted to any organization whose members “possessed all of the indicia of membership in an organization,” such as paying dues and financing the activities of the organization. *Hunt*, 432 U.S. at 334. Indeed, in a subsequent case on the scope of organizational standing, the Supreme Court clarified that “the doctrine of associational standing recognizes that the primary reason people join an organization is often to create an effective vehicle for vindicating interests that they share with others.” *International Union v. Brock*, 477 U.S. 274, 282-83 (1986). This perfectly characterizes all of our organizations, which, as is evident from the mission statements and purposes excerpted above, were created to vindicate the shared interests of their members in environmental stewardship (SELC, NRDC and CCL) and responsible energy policy (SACE). Contrary to PEC’s unfounded allegations that our members would have no idea that they are supporting our involvement in proceedings such as the present docket, on its website, for example, SELC speaks of its work before regulatory commissions in general, Thompson Verification at ¶ 6, and this Commission (in the Duke DSM/EE proceedings) in particular. *Id.* at ¶ 8. *See also id.* at ¶ 13 (explaining SACE energy efficiency work disclosed on its website); at ¶ 21 (same, NRDC).<sup>2</sup>

Following the doctrine of organizational standing that *Hunt* and its progeny lay out, administrative law courts in South Carolina have repeatedly conferred standing upon public-interest groups such as SELC, SACE, NRDC and CCL. *See, e.g., S.C. Coastal*

---

<sup>2</sup> To the extent that PEC is arguing that SELC, SACE, NRDC or CCL must identify by name individuals that are PEC ratepayers, we respond that such a showing at this early stage would violate the First Amendment right to free association. That said, all of the information contained in the Thompson Verification was confirmed down to the individual level in response to PEC’s motion.

*Conservation League v. S.C. Department of Health & Environmental Control*, 548 S.E.2d 887 (S.C. Ct. App., 2001); *Bernholz v. South Carolina Department of Health and Environmental Control*, South Carolina Administrative Law Judge Division, Docket No. 05-ALJ-07-0475-CC, 2007 SC ENV LEXIS 20 (Mar. 15 2007) (South Carolina Coastal Conservation League granted Intervenor standing); *Henry v. South Carolina Department of Health and Environmental Control*, South Carolina Administrative Law Judge Division, Docket No. 02-ALJ-07-0525-CC, 2005 SC ENV LEXIS 21 (Jan. 12, 2005) (same); *South Carolina Coastal Conservation League, v. South Carolina Department of Health and Environmental Control*, South Carolina Administrative Law Judge Division, Docket No. 00-ALJ-07-0629-CC, 2002 SC ENV LEXIS 71 (April 18, 2002). Indeed, this Commission allowed SELC, SACE and CCL to intervene in the Duke Save-a-Watt proceedings that took place last year in Docket No. 2007-358-E.

**B. PEC Identifies no Requirement that Organization Members be Consulted on the Details of Intervention**

PEC's second argument as to why the SELC *et al* lack organizational standing seems to be that SELC, SACE, NRDC and CCL failed to show that they consulted any of the PEC ratepayers among their members over plans for intervening in this docket. But the case law requires no such thing; indeed, it points in the opposite direction. As the Supreme Court explained in *Warth v. Seldin*, 422 U.S. 490, 511 (1975), so long as an organization alleges that any of its members have a particularized interest in the litigation that would be individually justiciable:

So long as this can be established, and so long as the nature of the claim and of the relief sought *does not make the individual participation of each injured party indispensable* to proper resolution of the cause, the *association* may be an appropriate representative of its members, entitled to invoke the court's jurisdiction.



*Id.* at 511 (emphasis added). In other words, organizational standing makes the most sense when individual member participation is *not* required.

In sum, not only do SELC, SACE, NRDC and CCL satisfy all the requirements of organizational standing to intervene in this proceeding, but PEC also fails to cite to any case law indicating that we do not. We urge the Commission to follow the precedent it set in Docket No. 2007-358-E and allow our coalition groups to intervene once again.

## **II. The Coalition Should be Allowed to Intervene Out of Time**

PEC's second argument as to why the Commission should deny SELC *et al's* Petition to Intervene Out of Time is that we can establish no reason for seeking intervention on December 29, 2008, four months after PEC filed its Application for the Establishment of Demand Side Management and Energy Efficiency Program Procedures.

In response to this, we would argue as follows: As mentioned above, SELC, SACE, NRDC and CCL have been acting as a coalition to promote energy efficiency in the Southeast. As a group made up of non-profit organizations of limited means, we must choose carefully where to devote our attention, and are unable to participate in the full range of DSM, EE, integrated resource planning (IRP) proceedings that take place in our regions. SELC, SACE and NRDC were actively involved in the Duke SAW proceedings in North Carolina, which took place in June and August 2008; and also had intervened in PEC's DSM/EE proceedings before the North Carolina Utilities Commission, at that time spread out among four separate dockets. In light of this work, the coalition initially made a decision not to intervene in the present docket.

On October 10, 2008, PEC filed a motion seeking to postpone hearings in this docket until February 2009, on the basis that, among other things, PEC's involvement in the North Carolina proceedings (originally scheduled for a September hearing) had diverted its attention and resources (just as it had that of the coalition). On November 5, 2008, the Commission issued a new scheduling order, accepting PEC's proposed schedule. This prompted the coalition to reexamine whether it had the resources to intervene in this docket at the delayed date, which it decided it would because that date followed the conclusion of the North Carolina PEC proceedings. This decision was reached shortly after the rescheduling order in this docket issued.


At that point, PEC had begun to file multiple changes to its DSM/EE program in North Carolina, including the addition of two new programs and two pilot programs in four separate filings on October 31, 2008, an amendment to the compensation structure on November 14, 2008, and a proposed settlement with the North Carolina Public Staff that that mapped out a third alternative compensation structure on December 13, 2008. Not unpredictably, these filings, and required responses thereto, monopolized the coalition's time from mid-November through the Christmas holiday. The coalition filed its Petition to Intervene in this docket on December 29, the Monday following Christmas, which was the first available opportunity for it to do so.

SELC *et al* would urge that it was reasonable to revisit our ability to intervene in this docket once PEC sought and received permission to postpone the hearings until February 2009. This is especially true in light of the fact that we made our initial decision not to intervene based on the very same reason for which PEC sought the new schedule—because its resources were tied up in the North Carolina proceedings. That

said, we understand that it is within the discretion of the Commission whether to grant a Petition to Intervene Out of Time, based on equitable factors.

WHEREFORE, SELC, on behalf of itself, SACE, NRDC, and CCL, prays that they be allowed to intervene in this matter, and that PEC's Motion be denied.

Respectfully submitted this 13<sup>th</sup> day of January, 2009.

 S/k/o Blau Holman  
J. Blanding Holman, IV, SC Bar No. 72260  
38 Broad Street, Suite 200  
Charleston, SC 29401  
Telephone: (843) 720-5270  
Fax: (843) 720-5240

Gudrun Thompson  
Southern Environmental Law Center  
200 W. Franklin Street, Suite 330  
Chapel Hill, NC 27516  
Telephone: (919) 967-1450  
Fax: (919) 929-9421

Sarah Rispin  
Southern Environmental Law Center  
201 West Main Street, Suite 14  
Charlottesville VA 22902  
Telephone: (434) 977 4090  
Fax: (434) 977-1483

Attorneys for SELC, SACE, NRDC & CCL

STATE OF SOUTH CAROLINA  
BEFORE THE PUBLIC SERVICE COMMISSION

DOCKET NO. 2008-251-E

In the Matter of:	)	
	)	
Application of Carolina Power and Light	)	VERIFICATION IN SUPPORT OF
	)	SOUTHERN ENVIRONMENTAL
Company d/b/a Progress Energy Carolinas,	)	LAW CENTER'S OPPOSITION TO
Incorporated for the Establishment of	)	PROGRESS ENERGY
	)	CAROLINAS' OPPOSITION
Procedures for DSM/EE Programs	)	TO SELC'S PETITION TO
	)	INTERVENE ON BEHALF OF
	)	ITSELF, SOUTHERN
	)	ALLIANCE FOR CLEAN
	)	ENERGY, NATURAL
	)	RESOURCES DEFENSE
	)	COUNCIL AND THE SOUTH
	)	CAROLINA COASTAL
	)	CONSERVATION LEAGUE

I, Gudrun Thompson, Staff Attorney in the Carolinas Office of the Southern Environmental Law Center, as attorney for the Southern Environmental Law Center (SELC), Southern Alliance for Clean Energy (SACE), Natural Resources Defense Council (NRDC), and the South Carolina Coastal Conservation League (CCI), verify the following to be true to the best of my knowledge, except as to those matters stated on information and belief, and as to those matters, I believe them to be true:

Southern Environmental Law Center

1. SELC is a non-profit regional environmental organization, organized under the laws of the State of North Carolina. SELC maintains three offices in North and South Carolina, in Asheville NC, Chapel Hill NC, and Charleston SC.
2. SELC defines members to include those persons who make annual contributions to SELC. When a person makes contributions to SELC, his or her current residential address is recorded in SELC's donor database. When a member makes a

further contribution to SELC, his or her residential address is verified and updated in the donor database.

3. According to this database, SELC currently has several dozen annual donors living in PEC's Southern Region. On information and belief, at least one of these is a Progress Energy ratepayer.

4. SELC is dedicated to the protection of natural resources throughout the Southeast. SELC works to protect the health of South Carolina residents by advocating energy conservation and efficiency policies, and emissions reductions at electric utility plants in South Carolina.

5. SELC's mission statement is to: "Use the power of the law to protect the environment and health of the Southeast. Working in all three branches of government, this non-profit organization shapes, implements, and enforces the laws and policies that determine the quality of the air you breathe, the water you drink, and the landscapes and communities around us."

6. SELC's website describes our "law and policy model" as one that "pull[s] the lever that works—in Congress, in state legislatures, *in regulatory agencies*, and . . . in the courts." (emphasis added).

7. Consistent with this mission, and as indicated by the statement that we work before "regulatory agencies," SELC participated as an Intervenor in the Duke Save-a-Watt (SAW) proceedings before the South Carolina Public Service Commission, Docket No. 2007-358-E, and the North Carolina Utilities Commission, Docket No. E-7 sub 831, and in the Progress Energy Carolinas (PEC) DSM/EE rider and program-approval proceedings before the North Carolina Utilities Commission, Docket No.'s E-2

sub 926, 927, 928, 931, 935, 936, 937 & 938. SELC's purpose in intervening in those proceedings was to push for a stronger energy-efficiency program.

8. SELC's website puts forward our involvement in the Duke Save-a-Watt proceedings in the Carolinas as representative of its "air and energy" work.

9. SELC seeks to intervene in this proceeding in order to ensure that its members' interests in promoting energy efficiency as a method of clean generation of their electricity needs are represented.

Southern Alliance for Clean Energy

10. SACE is a nonprofit corporation organized under the laws of the State of Tennessee. The principal address of SACE is P.O. Box 1842, Knoxville, TN 37901-1842. SACE maintains five offices throughout the Southeast, including one in Asheville, North Carolina, which is a PEC service area.

11. SACE describes itself on its website as "a nonprofit, nonpartisan organization that promotes responsible energy choices that solve global warming problems and ensure clean, safe and healthy communities throughout the Southeast."

12. SACE divides its work into five main program areas: Climate Action, Energy Efficiency, High Risk Energy, Clean Energy, and Clean Fuels.

13. As indicated on its website, SACE's energy efficiency work includes advocating increased electric utility investment in energy efficiency programs, home energy efficiency, minimum appliance and equipment energy-efficiency standards, and model energy-efficiency building codes.

14. SACE indicates on its Energy Efficiency page on its website that one way to participate in this work is to "Join SACE and help us continue our fight for clean air, clean water and healthy communities."

15. SACE has multiple members who live in Progress Energy Carolina service territory in South Carolina and are Progress Energy Carolina ratepayers.

16. SELC participated as an Intervenor in the Duke Save-a-Watt (SAW) proceedings before the South Carolina Public Service Commission, Docket No. 2007-358-E, and the North Carolina Utilities Commission, Docket No. E-7 sub 831, and in the Progress Energy Carolinas (PEC) DSM/EE rider and program-approval proceedings before the North Carolina Utilities Commission, Docket No.'s E-2 sub 926, 927, 928, 931, 935, 936, 937 & 938. SACE's purpose in intervening in those proceedings was to push for a stronger energy-efficiency program.

17. SACE seeks to intervene in this proceeding on behalf of those members to promote greater reliance on energy conservation and efficiency to meet South Carolina's energy needs.

#### Natural Resources Defense Council

18. NRDC is a membership organization incorporated under the laws of the State of New York. NRDC is a national environmental organization with over 30 years experience working on state energy policy, including utility regulation and energy efficiency.

19. When a person becomes a member of NRDC, that person explicitly authorizes NRDC to take legal action on his or her behalf to protect the environment and public health.

20. NRDC currently has over two thousand members in South Carolina. On information and belief, more than one of these is a Progress Energy ratepayer.

21. NRDC has initiated a nationwide energy-efficiency campaign to strengthen the nation's energy efficiency delivery infrastructure, and has advocated adoption of regulatory mechanisms to encourage prudent utility investments in energy efficiency.

22. As part of this effort, NRDC participated as an Intervenor in the Duke Save-a-Watt (SAW) proceedings before the North Carolina Utilities Commission, Docket No. E-7 sub 831, and in the Progress Energy Carolinas (PEC) DSM/EE rider and program-approval proceedings before the North Carolina Utilities Commission, Docket No.'s E-2 sub 926, 927, 928, 931, 935, 936, 937 & 938. NRDC's purpose in intervening in those proceedings was to push for a stronger energy-efficiency program.

23. NRDC seeks to intervene in this proceeding on behalf of its members in order to promote greater reliance on energy conservation and efficiency resources to meet South Carolina's energy needs.

#### South Carolina Coastal Conservation League

24. CCL is a nonprofit corporation organized under the laws of the State of South Carolina. The principal address of CCL is P.O. Box 1765, Charleston, SC 29402.

25. CCL's mission is to "protect the natural environment of the South Carolina coastal plain and to enhance the quality of life of our communities by working with individuals, businesses and government to ensure balanced solutions."

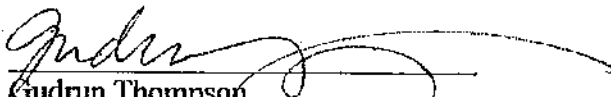


26. CCL advocates increased conservation and energy efficiency in South Carolina as a critical step to averting global warming that it believes threatens the South Carolina coastal plain and the quality of life of South Carolinians.

27. CCL has over 4000 members in South Carolina, including approximately two hundred customers that live in PEC service areas and are PEC ratepayers and would be subject to direct impacts of Progress's energy efficiency and demand-side management plans.

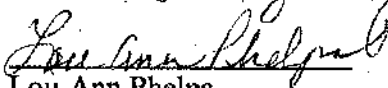
28. CCL participated as an Intervenor in the Duke Save-a-Watt (SAW) proceedings before the South Carolina Public Service Commission, Docket No. 2007-358-E. CCL's purpose in intervening in those proceedings was to push for a stronger energy-efficiency program.

29. CCL and its members seek to intervene in this docket to promote the interests of its members in energy efficiency and environmentally sound electrical utility planning.

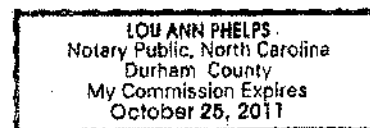
  
Gudrun Thompson  
Date: 1/13/09

State of North Carolina  
County of Orange

Sworn to and subscribed before me, a Notary Public.  
This 13th day of January, 2009.

  
Lou Ann Phelps  
Notary Public

My commission expires: October 25, 2011



### CERTIFICATE OF SERVICE

I hereby certify that the following persons have been served with the Southern Environmental Law Center's (SELC's) Petition to Intervene Out of Time on behalf of itself, the Southern Alliance for Clean Energy (SACE), the Natural Resources Defense Council (NRDC), and the South Carolina Coastal Conservation League (CCL).

Thomas S. Mullikin , Counsel  
Nucor Steel - South Carolina  
Moore & Van Allen, PLLC  
100 North Tryon Street, Ste. 4700  
Charlotte, NC, 28202

Len S. Anthony , Deputy General Counsel  
Progress Energy Carolinas, Incorporated  
Post Office Box 1551  
Raleigh, NC, 27602

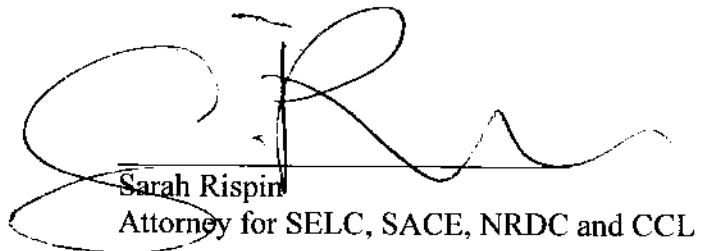
Robert R. Smith, II , Counsel  
Nucor Steel-South Carolina  
Moore & Van Allen, PLLC  
100 North Tyron St., Suite 4700  
Charlotte, NC, 28202

Holly Rachel Smith , Counsel  
Wal-Mart Stores East, LP  
Russell W. Ray, PLLC  
6212-A Old Franconia Road  
Alexandria, VA, 22310

Shealy Boland Reibold , Counsel  
Office of Regulatory Staff  
1401 Main Street, Suite 900  
Columbia, SC, 29201

Timothy J. Monahan , Counsel  
Wal-Mart Stores East, LP  
Monahan & Moses, LLC  
13-B W. Washington Street  
Greenville, SC, 29601

This 13th day of January, 2009.



Sarah Rispin  
Attorney for SELC, SACE, NRDC and CCL

# CERTIFICATE OF SERVICE

I hereby certify that the following persons have been served with the Southern Environmental Law Center's (SELC's) Petition to Intervene Out of Time on behalf of itself, the Southern Alliance for Clean Energy (SACE), the Natural Resources Defense Council (NRDC), and the South Carolina Coastal Conservation League (CCL).

Thomas S. Mullikin , Counsel  
Nucor Steel - South Carolina  
Moore & Van Allen, PLLC  
100 North Tryon Street, Ste. 4700  
Charlotte, NC, 28202

Len S. Anthony , Deputy General Counsel  
Progress Energy Carolinas, Incorporated  
Post Office Box 1551  
Raleigh, NC, 27602

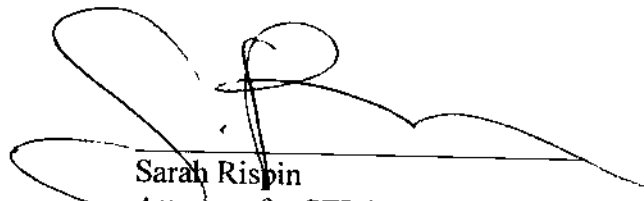
Robert R. Smith, II , Counsel  
Nucor Steel-South Carolina  
Moore & Van Allen, PLLC  
100 North Tyron St., Suite 4700  
Charlotte, NC, 28202

Holly Rachel Smith , Counsel  
Wal-Mart Stores East, LP  
Russell W. Ray, PLLC  
6212-A Old Franconia Road  
Alexandria, VA, 22310

Shealy Boland Reibold , Counsel  
Office of Regulatory Staff  
1401 Main Street, Suite 900  
Columbia, SC, 29201

Timothy J. Monahan , Counsel  
Wal-Mart Stores East, LP  
Monahan & Moses, LLC  
13-B W. Washington Street  
Greenville, SC, 29601

This 14th day of January, 2009.



Sarah Rispin  
Attorney for SELC, SACE, NRDC and CCL